

**EXHIBIT 10**

GLORIA L. FRANKLIN, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

Signed and Filed: July 2, 2012



*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re ) Bankruptcy Case  
FERMIN SOLIS ANIEL and ERLINDA ) No. 09-30452DM  
ABIBAS ANIEL, ) Chapter 7  
Debtors. )

ORDER DENYING MOTION TO VACATE ORDER

Debtors in this converted Chapter 7 case filed a voluntary petition under Chapter 11 on February 25, 2009. Their case was converted to Chapter 7 on their motion on August 2, 2010. On December 2, 2010, the court entered Debtors' Discharge (Docket No. 263). The Chapter 7 trustee filed a Report of No Distribution on February 3, 2011, and on February 4, 2011, the court entered a Final Decree and the case was closed.

Sixteen months later, on June 18, 2012, Debtors submitted a Certification of Debtors' Discharge (Docket No. 272) ("Certification"). In the first paragraph of the Certification, Debtors repeated the substance of the court's December 2, 2010, Discharge, reciting that ". . . debtors are granted a discharge under section 727 of Title 11, United States Code, (the "Bankruptcy Code")." But the Certification went on to do much

1 more, namely to discharge and declare void a deed of trust  
2 securing a discharged debt on property they own in San Francisco.  
3 Debtors did not serve the Certification on any affected creditor  
4 or other parties in interest.

5 The purpose of the Certification plainly is to clear the deed  
6 of trust from the property, the equivalent of a quiet title  
7 action, yet Debtors did not pay a fee to reopen their case nor  
8 commence an adversary proceeding to determine the validity of any  
9 lien on their property (see Fed. R. Bankr. P. 7001(2) & (9)).

10 To dispose of this unusual and procedurally improper  
11 proceeding, the court simply issued an Order Denying Debtors'  
12 Requested Certifications Regarding Effect of Discharge On Secured  
13 Debts on June 21, 2012 (Docket No. 271) ("Order Denying  
14 Certification"). The court explained that under controlling  
15 United States Supreme Court precedents, liens survive discharge in  
16 Chapter 7 bankruptcy and, while in personam liability is  
17 eliminated, the subject property remains burdened by the lien,  
18 preserving for the holder a right to payment from the proceeds of  
19 any sale of the property.

20 Incredibly, Debtors responded on June 28, with their Motion  
21 To Vacate Sua Sponte Order On Certification Of Discharge (Docket  
22 No. 274). In that motion Debtors recite that they "never expected  
23 that this court in relation to debtors' prepared certificates  
24 would issue a public order." As the docket in this case reflects,  
25 Debtors are no strangers to bankruptcy process. More  
26 specifically, all of their requests throughout this long case have  
27 been dealt with by public responses on the court's docket. If  
28 they did not expect the court to issue a public order, it is not

1 clear what they in fact expected to do with the Certification had  
2 the court signed it.

3 Audaciously, the Debtors now recite that the court lacks  
4 jurisdiction to issue the Order Denying Certification. They do  
5 not explain how, if there was no jurisdiction to issue that order,  
6 there might have been jurisdiction to issue the Certification.  
7 Further, their motion to vacate is completely silent on the legal  
8 principles recited in the Order Denying Certification. Instead,  
9 they contend that the court should vacate its order with the  
10 proposed Certification unsigned, leaving the debtors in the same  
11 position had they never submitted the Certification. That is  
12 exactly the situation resulting from the court's Order Denying  
13 Certification, namely the deed of trust remains valid as against  
14 their property. This episode of the Debtors' aggressive and  
15 legally unsupportable request, and the court's response, proves  
16 the adage "Be careful what you ask for."

17 The Motion To Vacate Sua Sponte Order On Certification Of  
18 Discharge is DENIED.

19 \*\*END OF ORDER\*\*  
20  
21  
22  
23  
24  
25  
26  
27  
28

COURT SERVICE LIST

Fermin Solis Aniel  
75 Tobin Clark Drive  
Hillsborough, CA 94010

Erlinda Abibas Aniel  
75 Tobin Clark Drive  
Hillsborough, Ca 94010

BAC Home Loans Servicing, LP fka Countrywide Home  
7105 Corporate Drive  
PTX-B-35  
Plano, TX 75024

Litton Loan Servicing, L.P.  
Bankruptcy Department  
4828 Loop Central Drive  
Houston, TX 77081-2226

National City Bank  
P.O. Box 94982  
Cleveland, OH 44101

Aurora Loan Services, LLC  
c/o McCarthy Holthus, LLP  
1770 Fourth Avenue  
San Diego, CA 92101

OneWest Bank, FSB  
7700 W. Palmer, Bldg. D  
Austin, Texas 78729

American Home Mortgage Servicing Inc.  
4875 Belfort Road Suite 130  
Jacksonville, Florida 32256

GMAC Mortgage, LLC  
4375 Jutland Drive, Suite 200  
P.O. Box 17933  
San Diego, CA 92177-0933

HSBC Bank USA, National Association  
c/o Pite Duncan, LLP  
4375 Jutland Drive, Suite 200  
P.O. Box 17933  
San Diego, CA 92177-0933